

REMARKS

Applicants have amended their claims in order to further clarify the definition of various aspects of the present invention. Specifically, Applicants have cancelled non-elected claims 1-55 and 67-84 without prejudice or disclaimer; and, in particular, without prejudice to the filing of a Divisional application or applications directed to the subject matter thereof. Applicants have maintained withdrawn claim 85, and specifically traverse the conclusion by the Examiner that claim 85 is directed to an invention that is independent or distinct from the invention originally claimed, as will be set forth infra.

Applicants have amended each of claims 57, 59, 62, 63, 65 and 66 to be dependent only on allowed claim 56, deleting dependency of these claims on non-elected claim 83.

Initially, it is respectfully requested that the present amendments be entered. Noting, for example, that the present claims have been amended to delete dependency on a non-elected claim, it is respectfully submitted that the present amendments materially limit issues remaining in connection with the above-identified application; and should present claims 57, 59, 62, 63, 65 and 66 in allowable condition. Furthermore, noting that the objection to various of the present claims as set forth in the second paragraph on page 2 of the Office Action mailed September 8, 2003, has been made for the first time in this Office Action mailed September 8, 2003, it is respectfully submitted that the present amendments are timely. Clearly, the present amendments, deleting dependency, do not raise any new issues, including any issue of new matter, noting especially the original claims.

In view of the foregoing, it is respectfully submitted that Applicants have made the necessary showing under 37 CFR § 1.116(c); and that, accordingly, entry of the present amendments is clearly proper.

Applicants note with thanks the allowance of claims 56, 58, 60 and 64.

Applicants note the objection to claims 57, 59, 61, 62, 63, 65 and 66 as being dependent upon a non-elected claim, and the further indication by the Examiner that these claims would be allowable if rewritten to exclude the non-elected claim.

Initially, attention is respectfully directed to claim 61. Claim 61 is a single-dependent claim, dependent on allowed claim 60. That is, it is respectfully submitted that as considered by the Examiner in the Office Action mailed September 8, 2003, claim 61 was not dependent upon a non-elected claim. It is respectfully submitted that claim 61 should have been allowed in the Office Action mailed September 8, 2003; and, in any event, upon reconsideration, it is respectfully submitted that original claim 61, as presently in the application, should be allowed. In view of present amendments to claims 57, 59, 62, 63, 65 and 66 to delete dependency thereof on non-elected claim 83, it is respectfully submitted that the objection to these claims is moot, and that these claims should now be allowed.

Withdrawal of newly submitted claims 83-85, as set forth in the third paragraph on page 2 of the Office Action mailed September 8, 2003, is noted. Claims 83 and 84 have been cancelled without prejudice or disclaimer, and, in particular, without prejudice to the filing of a Divisional application directed to the subject matter thereof. Accordingly, any question concerning whether these claims are directed to an invention that is independent or distinct from the invention originally claimed is moot.

Attention is respectfully directed to claim 85 as previously presented, and as considered by the Examiner in the Office Action mailed September 8, 2003.

Claim 85 was (and is) dependent on elected claim 56, which has been allowed. It is respectfully submitted that claim 85 should also be allowed in the above-identified application.

The contention by the Examiner that the newly submitted claims, including claim 85, are directed to a "cereal" where Applicants have already elected "rice", is respectfully traversed insofar as applicable to claim 85. Claim 85 is dependent on claim 56, which recites a method of producing liquor including a step for preparing a saccharified rice liquor, wherein a liquefying reaction is taken place by adding rice and liquefying enzyme to water in order to obtain a liquefied mixture. Compare with, e.g., claim 83, reciting a step of liquefying and saccharifying a "cereal". It is respectfully submitted that the Examiner errs in including that claim 85 is directed to a "cereal".

In view of all of the foregoing, entry of the present amendments, and reconsideration and allowance of all claims remaining in the application, are respectfully requested.


To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to the Antonelli, Terry, Stout & Kraus,

506.39933X00

LLP Deposit Account No. 01-2135 (Docket No. 506.39933X00), and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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